

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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GF HEALTH PRODUCTS, INC.,

Plaintiff,

- against -

PETER WINOCUR,

Defendant.

**REPORT AND
RECOMMENDATION**

CV 03-4754 (TCP) (JO)

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JAMES ORENSTEIN, U.S. Magistrate Judge:

On February 25, 2005, a stipulation was filed that substituted the law firm of Holland & Knight with the law firm of Tunstead & Schechter, as attorneys for plaintiff GF Health Products, Inc. ("GF Health Products"). Docket Entry ("DE") 30. Subsequently, a conflict arose between the two firms. Holland & Knight would not turn over its files to Tunstead & Schechter on the ground that it claimed an attorney's lien pursuant to New York law on its files. Tunstead & Schechter disputed this assertion, claiming that Georgia law governed and that pursuant to that law, Holland & Knight was required to turn over its files. DE 31. By letter dated April 4, 2005, Judge Platt referred the issue to me for resolution.

Counsel for Holland & Knight and for Tunstead & Schechter appeared before me to discuss the lien issue on April 7, 2005 (on consent, I excused an appearance by counsel for defendant Peter Winocur). DE 36. At that time, the respective firms were able to reach a settlement regarding Holland & Knight's asserted lien. *Id.* I directed that the parties advise me by April 14, 2005 whether GF Health Products will post a bond with respect to the fees claimed by Holland & Knight. *Id.*

By letter dated April 14, 2005, Holland & Knight advised me that it reached an agreement with GF Health Products, that a transfer of the files to Tunstead & Schechter would take place the following week upon execution of the agreement and compliance with its terms, and that compliance with the terms would make posting a bond unnecessary. DE 39. By letter dated May 6, 2005, Tunstead & Schechter provided me with a joint status report of the case and advised that it received the files from Holland & Knight "last week and has commenced review of same." DE 40.

Accordingly, I recommend that the Court so order the stipulation substituting the law firm of Holland & Knight with the law firm of Tunstead & Schechter, as attorneys for plaintiff GF Health Products. DE 30.

A copy of this Report and Recommendation is today being served on all parties by means of the court's Electronic Case Filing system. Any objection to this Report and Recommendation must be filed with the Clerk of the Court with a courtesy copy to the undersigned within 10 days. Failure to file objections within this period waives the right to appeal the District Court's Order. *See* 28 U.S.C. § 636 (b)(1); Fed. R. Civ. P. 72; *Beverly v. Walker*, 118 F.3d 900 (2d Cir. 1997); *Savoie v. Merchs. Bank*, 84 F.3d 52, 60 (2d Cir. 1996).

SO ORDERED.

Dated: Central Islip, New York
May 9, 2005

/s/ James Orenstein
JAMES ORENSTEIN
U.S. Magistrate Judge